
RULES AND DIRECTIONS

FOR

PROCEEDINGS

IN

THE PATENT OFFICE.

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RULES AND DIRECTIONS

FOR

PROCEEDINGS IN THE PATENT OFFICE.

The following information and regulations are mainly intended for the benefit of persons having business with the Patent Office. They are designed to be in strict accordance with the acts of Congress applicable to the subject; which acts are printed in pamphlet form, and will be forwarded by the office to any one who may desire them.

WHO ENTITLED TO A PATENT.

1. Any person, whether citizen or alien, may obtain a patent for any invention or improvement made by him, and not before known. For greater particularity, see act of 1836, sections 6 and 7; act of 1842, section 3.

2. The assignee of any invention may have the patent issue to him directly, (act of 1837, section 6;) but this is held to apply only to assignees of entire interests; so that, although when the inventor assigns his *entire* interest to two or more, a patent will issue to them jointly, still if he yet retains a portion in himself, a joint patent will not be issued to him and them.

3. In case of the death of the inventor, the patent will issue to his legal representatives. (Act of 1836, section 10.)

4. Joint inventors are entitled to a joint patent; but neither can claim one separately.

WHAT WILL PREVENT THE GRANTING OF A PATENT.

5. Even although the applicant has in good faith actually made an invention, a patent therefor will not be granted him if the whole or any part of what he claims as new had before been patented, or described in any printed publication, in this or any foreign country, or even if it had before been invented or discovered *in this country*, (act of 1836, section 7;) or if he has once abandoned his invention to the public; or if, with his consent and allowance, it has been for more than two years in public use or on sale. (Act of 1836, section 6; act of 1839, section 7.)

6. The mere fact of prior invention or discovery abroad will not prevent the issue of the patent, unless the invention had been there patented, or described in some printed publication. (Act of 1836, section 7; also act of 1836, section 15.)

7. Merely conceiving the idea of an improvement or machine in this country, is not such an "invention" or "discovery" as is above contemplated. The invention must have been reduced to a practical

form, either by the construction of the machine itself, or of a model thereof, or at least by making a full drawing of it, or in some other manner equally descriptive of its exact character, so that a mechanic would be enabled, from the description given, to construct a model thereof, before it will prevent a subsequent inventor from obtaining a patent. (See *Hildreth vs. Heath*, and *Perry vs. Cornell*, decided by Judge Cranch on an appeal from the Commissioner.)

MODE OF PROCEEDING TO OBTAIN A PATENT.

8. The application must be made by the actual inventor, if alive, (act of 1836, section 6,) even although the patent is to issue to the assignee, (act of 1837, section 6;) but where the inventor is dead, the application and oath may be made by the executor or administrator. (Act of 1836, section 10.)

9. The application must be in writing, signed by the applicant, and addressed to the Commissioner of Patents.

The following is the usual form, to be varied according to circumstances:

Petition.

TO THE COMMISSIONER OF PATENTS:

The petition of John Fitch, of Philadelphia, in the county of Philadelphia, and State of Pennsylvania,

RESPECTFULLY REPRESENTS:

That your petitioner has invented a new and improved mode of preventing steam-boilers from bursing, which he verily believes has not been known or used prior to the invention thereof by your petitioner. He therefore prays that letters patent of the United States may be granted to him therefor, vesting in him and his legal representatives the exclusive right to the same, upon the terms and condition expressed in the act of Congress in that case made and provided; he having paid thirty dollars into the treasury, and complied with the other provisions of the said act.

JOHN FITCH.

10. The applicant must set forth in his specification the precise invention for which he claims a patent.

If claimed as a mere improvement on another invention, that fact should be clearly stated; and if claimed as substantially differing from another invention with which it appears to be coincident, the difference must be clearly pointed out.

11. Two or more separate machines will not be allowed to be the subject of one patent, whatever be the purpose for which they are used. This is intended to change the practice of the office in those respects, wherein in certain cases all the machines used in the manufacture of one article are allowed to be claimed in one application.

12. The specification must be signed by the inventor, (or by his executor or administrator if the inventor be dead.) It should describe the sections of the drawings (where there are drawings,) and refer by letters and figures to the different parts. The substantial requisites of the specification are set forth in the act of Congress of 1836, section 6. The following may be taken as a specimen of the proper form:

Specification.

TO ALL WHOM IT MAY CONCERN :

Be it known that I, John Fitch, of Philadelphia, in the county of Philadelphia, in the State of Pennsylvania, have invented a new and improved mode of preventing steam-boilers from bursting ; and I do hereby declare that the following is a full and exact description thereof, reference being had to the accompanying drawings, and to the letters of reference marked thereon :

The nature of my invention consists in providing the upper part of a steam-boiler with an aperture in addition to that for the safety-valve ; which aperture is to be closed by a plug or disk of alloy, which will fuse at any given degree of heat, and permit the steam to escape, should the safety-valve fail to perform its functions.

To enable others skilled in the art to make and use my invention, I will proceed to describe its construction and operation. I construct my steam-boiler in any of the known forms, and apply thereto guage-cocks, a safety-valve, and the other appendages of such boilers ; but, in order to obviate the danger arising from the adhesion of the safety-valve, and from other causes, I make a second opening in the top of the boiler, similar to that made for the safety-valve, as shown at A, in the accompanying drawing ; and in this opening I insert a plug or disk of fusible alloy, securing it in its place by a metal ring and screws, or otherwise. This fusible metal I, in general, compose of a mixture of lead, tin, and bismuth, in such proportions as will insure its melting at a given temperature, which must be that to which it is intended to limit the steam ; and will, of course, vary with the pressure the boiler is intended to sustain.

I surround the opening containing the fusible alloy by a tube B, intended to conduct off any steam which may be discharged therefrom. When the temperature of the steam in such a boiler rises to its assigned limit, the fusible alloy will melt, and allow the steam to escape freely, thereby securing it from all danger of explosion.

What I claim as my invention, and desire to secure by letters patent, is the application to steam-boilers of a fusible alloy, which will melt at a given temperature, and allow the steam to escape, as herein described, using for that purpose the aforesaid metallic compound, or any other substantially the same, and which will produce the intended effect.

JOHN FITCH.

Witnesses—

ROBERT FULTON,
OLIVER EVANS.

When the application is for a machine, the specification should commence thus:

Be it known that I, ———, of ———, in the county of ———, and State of ———, have invented a new and useful machine for [stating the use and title of the machine; and if the application is for an improvement, it should read thus: a new and useful improvement on a, or on the, machine, &c.]—and I do hereby declare that the following, is a full, clear, and exact description of the construction and operation of the same; reference being had to the annexed drawings, making a part of this specification, in which figure 1 is a perspective view; figure 2 a longitudinal elevation; figure 3 a transverse section, &c.; (thus describing all the sections of the drawings, and then referring to the parts by letters. Then follows the description of the construction and operation of the machine; and lastly the claim, which should express the nature and character of the invention, and identify the parts claimed separately or in combination. If the specification is for an improvement the original invention should be disclaimed, and the claim confined to the improvement.

13. The specification must be signed by the inventor and attested by two witnesses. (Act of 1836, section 6.)

14. The applicant must then make oath or affirmation as required by the act of 1836, section 6, which must be substantially as follows:

Oath.

CITY AND COUNTY OF PHILADELPHIA, } ss.
State of Pennsylvania,

On this ——— day of ———, 185 , before me, the subscriber, a ———, personally appeared the within named John Fitch, and made solemn oath (or affirmation) that he verily believes himself to be the original and first inventor of the mode herein described for preventing steam-boilers from bursting; and that he does not know or believe the same was ever before known or used; and that he is a citizen of the United States.

(Signed)

A B,
Justice of the Peace.

In the case of an alien who has taken the requisite steps to become naturalized, the following form should be adopted:

CITY AND COUNTY OF PHILADELPHIA, } ss.
State of Pennsylvania,

On this ——— day of ———, 185 , before me, the subscriber, a ———, personally appeared the within named John Fitch, and made solemn oath (or affirmation) that he verily believes himself to be the original and first inventor of the mode herein described for preventing steam-boilers from bursting; and that he does not know or believe the same was ever before known or used; and that he is a native of the Kingdom of Great Britain; that he has resided within the United States for the whole of the past year, and has taken the oath prescribed by law for becoming naturalized in this country.

(Signed)

A B,
Justice of the Peace.

15. If the applicant is an alien not residing in the United States, or if he has not taken the requisite steps to become naturalized, the oath must be modified accordingly. (See act of 1836, section 9.)

16. The oath may be taken before any person authorized by law to administer oaths.

17. When the oath is taken in a foreign country, the oath may be taken before any minister plenipotentiary, chargé d'affaires, consul, or commercial agent, holding commission under the government of the United States, or before any notary public of the country in which the oath is taken, being attested in all cases by the proper official seal. (See act of 1842, section 4.)

18. The drawings required by law (see act of 1836, section 6) should generally be in perspective. Such parts as cannot be shown in perspective must, if described, be represented in plans, sections, or details.

19. Duplicate drawings should be sent to the office in the first instance. They should be neatly executed on sheets separate from the other papers—from eighteen to nineteen inches from top to bottom, and not less than thirteen across, nor more than twenty-five, unless more space is necessary to exhibit the device or machine with clearness. One of these drawings, which is to be kept in the office for reference, should be on stiff drawing paper. The other, which is to be attached to the patent, should have a margin of one inch at least for that purpose on the right-hand side, and should be on some material that will bear folding and transportation. Each part should be distinguished by the same number or letter, wherever that part is delineated in the drawings, and should be referred to in the specification by such letter or number. These drawings should be signed by the applicant, and attested by two witnesses.

20. The model must be neatly and substantially made of durable material, and not more than one foot in length or height, except when a larger model is permitted by the office for special reasons to be shown by the applicant. Models filed as exhibits, in interference and other cases, should also as far as practicable conform to this rule as to size. Should they exceed this limit, they will not be preserved in the office after the termination of the case to which they belong. If made of pine or other soft wood, they should be painted, stained, or varnished.

A working model is always desirable, in order to enable the office fully and readily to understand the precise operation of the machine. The name of the inventor, and also of the assignee, (if assigned,) must be fixed upon it in a permanent manner.

21. When the invention is of a composition of matter, a specimen of the ingredients and of the composition, which the law requires, must accompany the application, (see act of 1836, section 6,) and the name of the inventor and assignee (if there be one) must be permanently affixed thereto.

22. Models or specimens forwarded without a name are liable to be lost or mislaid, as they cannot be entered upon the record.

23. No application can be examined, nor can the case be placed upon the files for examination, until the fee is paid, the model or specimen deposited, and the specification, with the petition, oath, and drawings, (when required,) filed.

24. The following persons are appointed agents to receive and forward to this office models, specimens, and manufactures, in accordance with the tenth section of the act of 1837:

The collector of the port of Portsmouth, New Hampshire.

The collector of the port of Portland, Maine.

The collector of the port of Burlington, Vermont.

The collector of the port of Providence, Rhode Island.

The collector of the port of Boston, Massachusetts.

The collector of the port of Hartford, Connecticut.

The collector of the port of New York.

The collector of the port of Philadelphia, Pennsylvania.

The collector of the port of Baltimore, Maryland.

The collector of the port of Richmond, Virginia.

F. L. Roux, Charleston, South Carolina.

The collector of the port of Savannah, Georgia.

The collector of the port of New Orleans, Louisiana.

The collector of the port of Detroit, Michigan.

The collector of the port of Buffalo, New York.

The surveyor at St. Louis, Missouri.

The collector of the port of Cleveland, Ohio.

The surveyor at Chicago, Illinois.

The surveyor at Cincinnati, Ohio.

The surveyor at Louisville, Kentucky.

Wm. Bakewell, Pittsburg, Pennsylvania.

The cost of transportation will in no case be defrayed by the office, unless the model is sent through one of the above-named agents, or unless sent through the cheapest ordinary channel of transportation; nor will it be defrayed in cases where larger models (either in applications or as exhibits) are sent than can be accepted and preserved under the 20th rule of this pamphlet.

OF THE EXAMINATION.

25. All cases in the Patent Office are arranged in classes, which are taken up for examination in regular rotation.

Those in the same class are examined and disposed of, as far as practicable, in the order in which the respective applications are completed. When, however, the applicant has a foreign patent for his invention, or when such invention is deemed of peculiar importance to some branch of the public service, and when, for that reason, the head of some department of the government specially requests immediate action, the case will be taken up out of its order. These, with applications for additional improvements and reissues, are the only exceptions to the rule above stated in relation to the order of examination.

26. A specification cannot be amended in any material part unless there is something to amend by—that is to say, it can only be so amended to cause it to correspond with the drawing or model. A similar rule is enforced in regard to amendments of the drawing or model. And where any substantial change is made by describing or representing in the specification a new invention, not included as a

portion of that originally described in the specification, a second affidavit must be made to the specification as amended, and the signature of witnesses will also be required anew.

27. When the change thus made is very considerable, the case may be placed at the foot of the list, to await its turn anew in the order of examination.

28. After a case has been examined and the claim allowed, no alteration will be permitted in the character of the invention without a withdrawal of the case and the filing of a new application, or (if the patent be granted) an application for a reissue, or for an additional improvement, as the case may require.

29. The personal attendance of the applicant at the Patent Office is unnecessary. The business can be done by correspondence or by attorney. All correspondence must be addressed to the Commissioner.

30. When an application has been finally decided, the Office will retain the original papers, furnishing the applicant copies—if he desires them—at the usual expense.

31. If the patent is granted, it will be transmitted to the patentee, or to his agent, in case he has a full power of attorney authorizing him to receive it.

OF WITHDRAWALS.

32. If, when an application is rejected, the applicant relinquishes his claim, in pursuance of the 7th section of the act of 1836 and the 12th section of the act of 1837, he must notify the Commissioner of the fact of such withdrawal, sending at the same time his receipt for two-thirds of the fee paid by him, which will be thereupon returned. The model and papers will be retained by the office. The applicant may, however, have the duplicate drawing if he desires it.

33. The applicant in such cases will be entitled to receive back from the office two-thirds of the fee paid by him at the time of making his application. But this right of withdrawal does not extend to applications for a design or for a reissue or additional improvement.

34. In withdrawing an application, the following forms may be followed:

TO THE COMMISSIONER OF PATENTS:

SIR: I hereby withdraw my application for a patent for improvements in the cotton-gin, now in your office, and request that twenty dollars may be returned to me, agreeably to the provision of the act of Congress authorizing such withdrawal.

ELI WHITNEY.

CABOTSVILLE, MASS., *February* 16, 1856.

Received of the Treasurer of the United States, per Charles Mason, Commissioner of Patents, twenty dollars, being the amount refunded on withdrawing my application for a patent for improvements in the cotton-gin.

ELI WHITNEY.

CABOTSVILLE, MASS., *February* 16, 1856.

35. Particular instructions should be given by the person withdrawing money from the office as to the manner in which the money shall be paid—whether to his order at this office, or remitted by mail.

36. When caveats have been filed, withdrawals can be made the same as in other cases: and such withdrawals can be made and two-thirds of the fee refunded at any time previous to the renewal of the oath, as provided for in the 7th section of the act of 1836.

RETAINING PATENTS IN THE SECRET ARCHIVES.

37. No application upon which a patent has been ordered to issue shall be retained in the secret archives of the office more than six months from the day on which the patent was ordered to issue. The request to have the application placed in the secret archives shall in all cases be made by the patentee, or the assignee of all the interest therein, in writing, and filed with the chief clerk, before the patent shall be recorded.

OF APPEALS.

38. After a case has been once rejected, the applicant may have a second examination, by renewing his oath, either with or without an alteration of his specification. (Act of 1836, section 7.) But such alteration must be in accordance with article 26 of these rules. After thus applying for a second examination, no withdrawal will be allowed.

39. After a second rejection, the applicant may bring the case before the Commissioner in person, and, if still dissatisfied, may appeal to one of the judges of the circuit court of the District of Columbia. (See articles 112, 113, & 114, of these rules; also act of 1839, section 11, and 1852, section 1.)

40. The mode of appeal is by giving notice thereof to the Commissioner; filing in the Patent Office, within such time as the Commissioner shall appoint, his reasons of appeal; and paying to him the sum of twenty-five dollars. (Act of 1839, section 11.) Blanks for the notice of appeal, the reasons of appeal, the petition, and copies of the appellate judge's rules, will be forwarded on request.

OF INTERFERENCES.

41. When each of two or more persons claims to be the first inventor of the same thing, an "interference" is declared between them, and a trial is had before the Commissioner. Nor does the fact that one of the parties has already obtained a patent prevent such an interference; for although the Commissioner has no power to cancel a patent already issued, he may, if he finds that another person was the prior inventor, give him also a patent, and thus place them on an equal footing before the courts and the public. (Act of 1836, section 8.)

42. Upon the declaration of an interference, a day will be fixed for closing the testimony, and a further day fixed for the hearing of the cause. Previous to this latter day, the arguments of counsel must be filed, if at all.

43. If either party wishes a postponement of either the day for closing the testimony or the day of hearing, he must, before the day he thus seeks to postpone is past, show by affidavit a sufficient reason for such postponement.

OF REISSUES, AND ADDITIONAL IMPROVEMENTS.

44. A reissue is granted to the original patentee, his heirs, or assigns, when by reason of an insufficient or defective specification the patent is invalid, provided the error has arisen from inadvertency, accident, or mistake, without any fraudulent or deceptive intention. (Act of 1836, section 13.)

45. The general rule is, that whatever is really embraced in the original invention and so described or shown that it might have been embraced in the original patent, may be the subject of a reissue.

46. A modification of a patent so as to include an additional improvement is allowed in favor of the original patentee only, and may embrace any improvement made by him *subsequent to the issuing of the patent*, but none other. (Act of 1836, section 13.)

47. In each of the above cases the modified patent expires at the same time as the original patent would have done. For this reason such applications will be acted upon immediately after they are completed.

48. Where a reissue is granted, the applicant may, at his option, have separate patents issued for the several distinct parts of the thing patented, by paying the requisite additional fees, and complying with the other requirements of the law as in original applications. (Act of 1837, section 5.)

49. In all cases of applications for reissues and for additional improvements, the original claim is subject to re-examination, and may be revised and restricted in the same manner as in original applications. (Act of 1837, section 8.)

50. But in all such cases, after the action of the Patent Office has been made known to the applicant, if he prefers the patent originally granted to that which will be allowed by the decision of the office, he has the privilege of abandoning the latter, and retaining the old patent.

51. The following are appropriate forms of application for reissues and for additional improvements:

Surrender of a patent for reissue.

TO THE COMMISSIONER OF PATENTS:

The petition of Samuel Morey, of Philadelphia, in the county of Philadelphia, and State of Pennsylvania,

RESPECTFULLY REPRESENTS:

That he did obtain letters patent of the United States for an improvement in the boilers of steam-engines, which letters patent are dated on the first day of March, 1850; that he now believes that the

same is inoperative and invalid by reason of a defective specification which defect has arisen from inadvertence and mistake. He therefore prays that he may be allowed to surrender the same, and request that new letters patent may issue to him, for the same invention, for the residue of the period for which the original patent was granted, under the amended specification herewith presented, he having paid fifteen dollars into the treasury of the United States, agreeably to the requirements of the act of Congress in that case made and provided.

SAMUEL MOREY.

Form of oath to be appended to applications for reissues.

CITY AND COUNTY OF PHILADELPHIA, }
State of Pennsylvania. } ss.

On this — day of —, 185 , before the subscriber, a — personally appeared the above-named Samuel Morey, and made solemn oath (or affirmation) that he verily believes that, by reason of an insufficient or defective specification, his aforesaid patent is not fully valid and available to him; and that the said error has arisen from inadvertence, accident, or mistake, and without any fraudulent or deceptive intention, to the best of his knowledge or belief.

(Signed,)

Addition of new improvements.

TO THE COMMISSIONER OF PATENTS:

The petition of James Rumsey, of the county of Berkeley, and State of Virginia,

RESPECTFULLY REPRESENTS:

That your petitioner did obtain letters patent of the United States for an improvement in the boilers of steam-engines, which letters patent are dated on the first day of March, 1850; that he has since that date made certain improvements on his said invention; and that he is desirous of adding the subjoined description of his said improvements to his original letters patent, agreeably to the provisions of the act of Congress in that case made and provided, he having paid fifteen dollars into the treasury of the United States, and otherwise complied with the requirements of the said act.

JAMES RUMSEY.

A specification and claim should then follow substantially as in case of an original application. The oath must also be the same, except that he need not swear to citizenship, but instead thereof should state as follows: "And that said improvement was made by him subsequent to the date of his aforesaid patent."

OF DISCLAIMERS.

52. Where, by inadvertence, accident, or mistake, the original patent is too broad, a disclaimer may be filed either by the original patentee or by any of his assignees. (Act of 1837, section 7.)

By the English law, as well as by the act of 1836, (section 15,) if the patent were too broad, it was wholly invalid. The case is now different here, but still the necessity of a disclaimer is manifest. (See act of 1837, section 9.)

53. The following is a sufficient form for a disclaimer :

To THE COMMISSIONER OF PATENTS :

The petition of Sebastian Cabot, of Cabotsville, in the county of Hampden, and State of Massachusetts,

RESPECTFULLY REPRESENTS :

That he has, by assignment, duly recorded in the Patent Office, become the owner of a right for the several States of Massachusetts, Connecticut, and Rhode Island, to certain improvements in the steam-engine, for which letters patent of the United States were granted to John Doe, of Boston, in the State of Massachusetts, dated on the first day of March, 1850 ; that he has reason to believe that, through inadvertence and mistake, the claim made in the specification of said letters patent is too broad, including that of which the said patentee was not the first inventor. Your petitioner, therefore, hereby enters his disclaimer to that part of the claim in the aforementioned specification which is in the following words, to wit : " I also claim the particular manner in which the piston of the above described engine is constructed so as to insure the close fitting of the packing thereof to the cylinder, as set forth ; " which disclaimer is to operate to the extent of the interest in said letters patent vested in your petitioner, who has paid ten dollars into the treasury of the United States, agreeably to the requirements of the act of Congress in that case made and provided.

SEBASTIAN CABOT.

When the disclaimer is made by the original patentee, it must, of course, be so worded as to express that fact.

OF EXTENSIONS.

54. The power of extending a patent for seven years from the day on which it would expire, is now vested in the Commissioner of Patents. (Act of 1836, section 18, and act of 1848, section 1.)

55. To justify the office in thus extending a patent, the two following questions must be first decided in the affirmative : 1st. Was the invention new and patentable when originally patented ? 2d. Has the patentee, without neglect or fault on his part, failed to obtain from the use and sale of his invention a reasonable remuneration for the time, ingenuity, and expense, bestowed upon his invention, and the introduction thereof into use ? (Act of 1836, section 18 ; 1848, section 1.)

56. The applicant for an extension should file his petition and pay in the requisite fee at least three months prior to the expiration of his

patent, to give time for the sixty days' notice required to be given, and to allow a sufficient time to the Commissioner to examine the case fully after the expiration of those sixty days, and previous to the day on which the patent is to expire. There is no power in the Patent Office to renew a patent after it has once expired. (Act of 1836, section 18; 1848, section 1.)

57. The applicant for an extension must furnish to the office a statement in writing, under oath, of the ascertained value of the invention, and of his receipts and expenditures. This statement should be made particular and in detail, unless sufficient reason is set forth why such a statement cannot be furnished. (Act of 1836, section 18; 1848, section 1.)

This statement must be filed within thirty days after filing his petition, as contemplated in the preceding section.

58. Any person opposing the extension of a patent must file his reasons in the Patent Office at least twenty days before the day of hearing, as set forth in the notices published. He may also, at any time after the application for an extension has been made, give notice to the applicant of his intention to oppose the said extension. After this notice he will be regarded as a party in the case, and be entitled to notice of the time and place of taking testimony, as well as to a list of the names and residences of witnesses whose testimony may have been previously taken.

59. The person opposing the extension will be entitled to a copy of the application, and any other papers on file, upon paying the costs of copying.

60. In contested cases no testimony will be received, unless by consent, which has been taken within thirty days next after the filing of the petition for the extension.

61. The notice of the application for an extension will fix a day for the closing of the testimony, and also a day for the hearing. The depositions and other papers relied upon as testimony must be filed in the office on or before the morning of the day next after that fixed for closing the testimony; and the arguments (if any) must be filed within ten days thereafter, unless some other time be fixed by the office.

62. Applications for a postponement of the hearing must be made and supported according to the same rules as are to be observed in the case of interferences. But they will not be granted in such a manner as to cause a risk of preventing a decision in season.

OF DESIGNS.

63. In making an application to patent a design, the same course is to be pursued as in case of an application for patenting a machine.

64. No patent for a design can be obtained by an alien, unless he has resided one year within the United States, and taken an oath of his intention to become a citizen thereof. (Act of 1842, section 3.)

65. The following, or other equivalent, forms are proper to be observed in the applications of this nature:

Form of application for patents for designs.

TO THE COMMISSIONER OF PATENTS:

The petition of Benjamin West, of the city and county of Philadelphia, and State of Pennsylvania,

RESPECTFULLY REPRESENTS:

That your petitioner has invented or produced [a new and original design for a composition in alto-relievo] which he verily believes has not been known prior to the production thereof by your petitioner. He therefore prays that letters patent of the United States may be granted to him therefor, vesting in him and his legal representatives the exclusive right to the same, upon the terms and conditions expressed in the act of Congress in that case made and provided, he having paid fifteen dollars into the treasury, and complied with the other provisions of the said act.

BENJAMIN WEST.

Form of specification.

TO ALL WHOM IT MAY CONCERN:

Be it known, that I, Benjamin West, of the city of Philadelphia, in the county of Philadelphia, and State of Pennsylvania, have invented or produced a new and original design for a composition in alto-relievo, and I do hereby declare that the following is a full and exact description of the same:

[Here follows a description of the design, with reference to the specimen or drawing, the specification to conclude with declaring what the inventor claims, in terms characteristic of the design, &c.]

BENJAMIN WEST.

Witnesses—

NOAH WEBSTER,

NATHANIEL BOWDITCH.

Form of oath.

CITY AND COUNTY OF PHILADELPHIA, }
State of Pennsylvania. } ss.

On this——day of——, 185 , before the subscriber, a——, personally appeared the within named Benjamin West, and made solemn oath, (or affirmation, as the case may be,) that he verily believes himself to be the original and first inventor or producer of the design for a composition in alto-relievo, and that he does not know or believe that the same was ever before known or used, and that he is a citizen of the United States.

OF FOREIGN PATENTS.

66. The taking out of a patent in a foreign country does not prejudice a patent previously obtained here; nor does it prevent obtaining a patent here subsequently.

When the patent is applied for here after being obtained abroad, it will extend only fourteen years from the date of the foreign patent. For this reason such cases will be acted upon out of their order, and as soon as the application is completed. (Act of 1839, section 6.)

67. Where an applicant seeks to make his a preferred case, in consequence of his having obtained a foreign patent, he should (temporarily) file in the office the patent so obtained, with the specifications (provisional or complete) attached, or a sworn copy of those. But where such papers or copies cannot be conveniently furnished, it will be sufficient if the reasons of such inability be set forth by affidavit, and also the fact that a foreign patent has actually been obtained, giving its date, and showing clearly that the invention so patented covers the whole ground of his present application.

OF PATENTS OBTAINED BY ALIENS.

68. If an alien neglects to put his invention on public sale within eighteen months after the patent is granted, and to continue it on sale to the public on reasonable terms, his patent will cease to protect him. (Act of 1836, section 15.)

OF CAVEATS.

59. Any citizen, or an alien, who has resided for one year last past in the United States, and has made oath of his intention to become a citizen thereof, can file a caveat in the secret archives of the Patent Office. And if at any time within one year thereafter another person applies for a patent for the same invention, the caveator will be entitled to notice to complete his specification, and to go into interference with the applicant for the purpose of proving priority of invention, and obtaining the patent if that fact be proved. (Act of 1836, section 12.)

70. The caveator will not be entitled to notice of any application pending at the time of filing his caveat, nor of any application filed after the expiration of one year from the date of filing the caveat. But he may renew his caveat at the end of one year, by paying a second caveat fee, which will continue it in full force for one year longer, and so on from year to year as long as the caveator desires.

No caveat can be filed in the secret archives of the office unless accompanied by an oath of the caveator that he is a citizen of the United States, or that he is an alien and has resided for one year last past within the United States, and has made oath of his intention to become a citizen thereof; nor unless the applicant also states, under oath, that he believes himself the original inventor of the art, machine, or improvement set forth in his caveat.

71. A caveat need not contain as particular a description of the invention as is requisite in a specification; but still the description should be sufficiently precise to enable the office to judge whether there is a probable interference when a subsequent application is filed.

72. Caveat papers cannot be withdrawn from the office nor undergo alteration after they have once been filed; but additional papers rela-

tive to the invention may be appended to the caveat, (their date being noted,) provided they are merely amendatory of the original caveat.

73. In the case of filing papers supplementary to an original caveat the right to notice in regard to the subject of those papers expires with the caveat; and any additional papers not relating to the invention first caveated will receive no notice.

74. The caveator, or any other person properly authorized by him, can at any time obtain copies of the caveat papers at the usual rates.

75. It is desirable that the caveat should be accompanied by drawings or sketches, and even by a model if convenient.

76. The following will give a general idea of the proper form of a caveat:

TO THE COMMISSIONER OF PATENTS:

The petition of Sebastian Cabot, of Cabotsville, in the county of Hampden, and State of Massachusetts,

RESPECTFULLY REPRESENTS:

That he has made certain improvements in the mode of constructing the boilers for steam-engines, and that he is now engaged in making experiments for the purpose of perfecting the same, preparatory to his applying for letters patent therefor. He therefore prays that the subjoined description of his invention may be filed as a caveat in the confidential archives of the Patent Office, agreeably to the provisions of the act of Congress in that case made and provided; he having paid twenty dollars into the treasury of the United States, and otherwise complied with the requirements of the said act.

SEBASTIAN CABOT.

CABOTSVILLE, *March 1, 1856.*

Here should follow a description of the general principles of the invention, so far as it has been completed.

PENALTIES FOR CERTAIN ACTS.

77. Patentees or their assignees are required to affix the date of the patent on each article vended or offered for sale, under a penalty of not less than one hundred dollars. (Act of 1842, section 6.)

78. Stamping or affixing the name of any patentee on any article without authority to do so, or affixing the word "patent" or "letters patent," or the stamp, mark, or device of any patentee on any unpatented article, is forbidden under a like penalty. (Act of 1842, section 5.)

OF THE REPAYMENT OF MONEY.

79. Money paid by actual mistake will be refunded (act of 1842, section 1;) but a mere change of purpose after the payment of money will not enable the person to obtain his money and withdraw his papers.

OF ASSIGNMENTS.

80. An inventor can assign his entire right before a patent is obtained, so as to enable the assignee to take out a patent in his own name, (see section 2d of these Instructions;) but the assignment must first be recorded and the specifications sworn to by the inventor. (Act of 1837, section 6.)

In the case of an assignment by a foreigner, the same fee will be required as if the patent issued to the inventor.

81. After a patent is obtained, the patentee may assign the right to make or use the thing patented in any specified portion of the United States, (act of 1836, section 11;) but no such assignment to specified portions of the United States, made prior to obtaining the patent, will enable the assignees to take out the patent in their own names.

82. Every assignment should be recorded within three months from its date; but if recorded after that time, it will protect the assignee against any one purchasing after the assignment is placed on record.

83. When the patent is to issue in the name of the assignee, the entire correspondence should be in his name.

84. The receipt of assignments is not generally acknowledged by the office. They will be recorded in their turn within a few days after their reception, and then transmitted to persons entitled to them,

85. Form of assignment of the entire interest in letters patent before obtaining the same, and to be recorded preparatory thereto:

Whereas I, Jethro Wood, of Scipio, in the county of Cayuga, and State of New York, have invented certain new and useful improvements in ploughs, for which I am about to make application for letters patent of the United States; and whereas David Peacock, of Burlington, New Jersey, has agreed to purchase from me all the right, title, and interest which I have, or may have, in and to the said invention in consequence of the grant of letters patent therefor, and has paid to me, the said Wood, the sum of five thousand dollars, the receipt of which is hereby acknowledged: Now this indenture witnesseth, that for and in consideration of the said sum to me paid, I have assigned and transferred, and do hereby assign and transfer, to the said David Peacock, the full and exclusive right to all the improvements made by me, as fully set forth and described in the specification which I have prepared and executed preparatory to the obtaining of letters patent therefor. And I do hereby authorize and request the Commissioner of Patents to issue the said letters patent to the said David Peacock, as the assignee of my whole right and title thereto, for the sole use and behoof of the said David Peacock and his legal representatives.

In testimony whereof, I have hereunto set my hand and affixed my seal, this sixteenth day of February, 1856.

JETHRO WOOD, [SEAL.]

Sealed and delivered in the presence of—

GEORGE CLYMER,
DAVID RITTENHOUSE.

Form of assignment of a partial right in a patent.

Whereas I, Jethro Wood, of Scipio, in the county of Cayuga, and State of New York, did obtain letters patent of the United States for certain improvements in ploughs, which letters patent bear date the first day of March, 1855; and whereas David Peacock, of Burlington, New Jersey, is desirous of acquiring an interest therein: Now, this indenture witnesseth, that for and in consideration of the sum of two thousand dollars, to me in hand paid, the receipt of which is hereby acknowledged, I have assigned, sold, and set over, and do hereby assign, sell, and set over, unto the said David Peacock, all the right, title, and interest which I have in the said invention, as secured to me by said letters patent, for, to, and in the several States of New York, New Jersey, and Pennsylvania, and in no other place or places: the same to be held and enjoyed by the said David Peacock, for his own use and behoof, and for the use and behoof of his legal representatives, to the full end of the term for which said letters patent are or may be granted, as fully and entirely as the same would have been held and enjoyed by me had this assignment and sale not been made. In testimony whereof, I hereunto set my hand and affix my seal, this sixteenth day of February, 1856.

JETHRO WOOD, [SEAL.]

Sealed and delivered in the presence of—

JACOB PERKINS,
BENJAMIN FRANKLIN.

OF THE OFFICE FEES, AND HOW PAYABLE.

86. Nearly all the fees payable to the Patent Office are positively required by law to be paid in advance. For the sake of uniformity and convenience, the remaining fees will be required to be paid in the same manner—that is to say, before the labor is performed for which they are to be received in payment.

87. The following is the tariff of fees established by law :

On every application for a design.....	\$15 00
On every caveat.....	20 00
On every application for a patent, if made by a citizen, or a foriegnner who has resided here one year and made oath of his intention to become a citizen.....	30 00
On every application, if by a subject of Great Britain.....	500 00
On every application, if by any other foreigner.....	300 00
On every filing a disclaimer.....	10 00
On every application for adding a new improvement.....	15 00
On every application for a reissue.....	15 00
On every additional patent granted on a reissue.....	30 00
On every application for an extension.....	40 00
On every appeal	25 00
On every copy of a patent, or other instrument, for every 100 words.....	10
On every copy of drawings.....the cost of having it made	
For recording every assignment of 300 words, or under.....	1 00

For recording every assignment, if over 300 and not over 1,000 words.....	\$2 00
For recording every assignment, if over 1,000 words.....	3 00

88. It is recommended that the money for the payment of fees should be deposited with an assistant treasurer, or other officer authorized to receive the same, taking his certificate and remitting the same to this office. When this cannot be done without much inconvenience, the money may be remitted by mail at the risk of the owner, and in every case the letter should state the exact amount enclosed.

89. In case of deposit made with the assistant treasurers, or other persons authorized to receive public moneys, a *duplicate receipt* should be taken, stating by whom the payment was made, and for what object. The particular invention should be referred to, to enable the applicant to recover the twenty dollars in case of the withdrawal of the petition.

The certificate of deposit may be made in the following form:

OFFICE OF THE —.

The Treasurer of the United States has credit at this office for — dollars in specie, deposited by —, of the town of —, in the county of —, and State of —, the same being for a patent (or whatever the object may be) for a steam-boiler.

A B.

90. The following officers are authorized to receive patent fees on account of the Treasurer of the United States, and to give receipts or certificates of deposit therefor, to wit:

Assistant Treasurer of the United States, Boston, Massachusetts.
 Assistant Treasurer of the United States, New York, New York.
 Treasurer of the Mint, Philadelphia, Pennsylvania.
 Surveyor and inspector, Pittsburg, Pennsylvania.
 Assistant Treasurer of the United States, Charleston, South Carolina.
 Collector, Baltimore, Maryland.
 Collector, Richmond, Virginia.
 Collector, Norfolk, Virginia.
 Collector, Buffalo Creek, New York.
 Collector, Wilmington, North Carolina.
 Collector, Savannah, Georgia.
 Collector, Mobile, Alabama.
 Treasurer Branch Mint, New Orleans, Louisiana.
 Assistant Treasurer United States, St. Louis, Missouri.
 Surveyor of the customs, Nashville, Tennessee.
 Surveyor of the customs, Cincinnati, Ohio.
 Receiver of Public Moneys, Little Rock, Arkansas.
 Receiver of Public Moneys, Jeffersonville, Indiana.
 Receiver of Public Moneys, Chicago, Illinois.
 Receiver of Public Moneys, Detroit, Michigan.
 Collector, San Francisco, California.
 Depositary, Tallahassee, Florida.

Any person wishing to pay a patent or other fee, may deposit it with either of the officers above named, and forward the receipt or

certificate to this office as evidence thereof. Bank notes or checks cannot be received.

91. All money sent by mail, either to or from the Patent Office, will be at the risk of the owner. In no case should money be sent enclosed with models.

92. All payments to or by the office must be made in specie.

TAKING AND TRANSMITTING TESTIMONY.

93. In contested cases, the following rules have been established for taking and transmitting evidence:

1. That before the deposition of a witness or witnesses be taken by either party, reasonable notice shall be given to the opposite party of the time and place when and where such deposition or depositions will be taken; so that the opposite party, either in person or by attorney, shall have full opportunity to cross-examine the witness or witnesses.

And such notice shall, *with proof of service of the same*, be attached to the deposition or depositions, whether the party cross-examine or not; and such notice shall be given in sufficient time for the appearance of the opposite party, and for the transmission of the evidence to the Patent Office before the day of hearing.

2. That all evidence, &c., shall be sealed and addressed to the Commissioner of Patents, by the persons before whom it shall be taken, and so certified thereon.

3. That the certificate of the magistrate taking the evidence shall be substantially in the following form, and written upon the envelope, viz:

“I hereby certify, that the depositions of A B, C D, &c., relating to the matter of interference between E F, and G H, were taken, sealed up, and addressed to the Commissioner of Patents by me.

“A B,

“Justice of the Peace.”

4. In cases of extension, where no opposition is made, ex parte testimony will be received from the applicant; and such testimony as may have been taken by the applicant prior to notice of opposition, shall be received, unless taken within thirty days after filing the petition for the extension. (See section 60, of these rules.) *Provided*, The applicant shall give prompt notice to the opposing party or parties of the names and residences of the witnesses whose testimony has been thus taken.

5. That no evidence touching the matter at issue will be considered upon the said day of hearing which shall not have been taken and filed in compliance with these rules: *Provided*, That if either party shall be unable for good and sufficient reasons, to procure the testimony of a witness or witnesses within the stipulated time, then it shall be the duty of said party to give notice of the same to the Commissioner of Patents, accompanied by statements, *under oath*, of the cause of such inability, and of the steps which have been taken to procure said testimony, and of the time or times when efforts have

been made to procure it; which last mentioned notice to the Commissioner shall be received by him previous to the day of hearing aforesaid.

94. The notice for taking testimony must be served by delivering to the adverse party a copy.

If he is not found, such service may be made upon his agent or attorney of record, or by leaving a copy at the party's usual place of residence, with some member of the family who has arrived at the years of discretion.

It must be annexed to the deposition, with a certificate, duly sworn to, stating the manner and time in which the service was made.

95. The testimony must (if either party desires it) be taken in answer to interrogatories—having the questions and answers committed to writing in their regular order by the magistrate, or, under his direction, by some person not interested in the issue, or the agent or attorney of one who is. The deposition, when complete, must be signed by the witness.

96. The magistrate must append to the deposition his certificate, stating the time and place at which it was taken, the names of the witnesses, the administration of the oath, at whose request the testimony was taken, the occasion upon which it is intended to be used, the names of the adverse parties, (if any,) and whether they were present.

97. No notice will be taken, at the hearing, of any merely formal or technical objection, unless it may reasonably be presumed to have wrought a substantial injury to the party raising the objection; nor even then, unless, as soon as that party became aware of the objection, he immediately give notice thereof to this office, and also to the opposite party, informing him at the same time that, unless corrected, he should urge his objection at the hearing.

98. The following forms are recommended for observance in the taking of depositions:

A B, being duly sworn, doth depose and say, in answer to interrogatories proposed to him by C D, counsel for E F, as follows, viz:

1. *Interrogatory*. What is your name, your residence, and occupation?

1. *Answer*. My name is A B; I am a carpenter, and reside in Boston, Massachusetts.

And in answer to cross-interrogatories proposed to him by G H, counsel for I K, as follows, viz:

1. *Cross-interrogatory, &c.*

(Signed)

A B.

STATE OF NEW YORK, }
Rensselaer County, } ss.

At Troy, in said county, on the ——— day of ———, A. D. 1856, before me personally appeared the above named A B, and made oath that the foregoing deposition, by him subscribed, contains the whole truth, and nothing but the truth.

The said deposition is taken at the request of E F, to be used upon the hearing of an interference between the claims of the said E F and

those of I K, before the Commissioner of Patents of the United States, at his office, on the ———day of———next. The said I K was duly notified, as appears by the original notice hereto annexed, and attended by G H, his counsel.

Certified by me,

L M,
Justice of the Peace.

The magistrate must then seal up the deposition when completed, and endorse upon the envelope a certificate, according to the form prescribed in section 93, and sign it.

RULES OF CORRESPONDENCE.

99. All correspondence must be in the name of the Commissioner of Patents; and all letters and other communications intended for the office must be addressed to him. If addressed to any of the other officers they will not be noticed, unless it should be seen that the mistake was owing to inadvertence.

100. Where an agent has filed his power of attorney, duly executed, the correspondence will, in ordinary cases, be held with him only. A double correspondence with him and his principal, if generally allowed, would largely enhance the labor of the office. For the same reason, the assignee of the entire interest in an invention is alone entitled to hold correspondence with the office, to the exclusion of the inventor. If the principal becomes dissatisfied, he must revoke his power of attorney, and notify the office, which will then communicate with him.

101. All communications to and from the Commissioner upon official business are carried in the mail free of postage.

OF THE FILING AND PRESERVATION OF PAPERS.

102. All claims and specifications filed in this office (including amendments) must be written in a fair, legible hand, without interlineations or erasures, except such as are clearly stated in a marginal or foot note written on the same sheet of paper.

103. Every paper filed in the office must be endorsed in such a manner as to show its general character on the outside. It must also show the exact date on which it was filed. But where several papers which were all filed at one and the same time are permanently fastened together, one "filing" for the whole will be sufficient.

Letters going on files of any particular case must, in addition to the filing above directed, be endorsed with the name of the writer and the date when written. (The above rule is intended for the guidance of the employés in this office alone.)

104. All papers thus "filed" will be regarded as permanent records of the office, and must never, on any account, be changed, further than to correct mere clerical mistakes.

OF AMENDMENTS.

105. All amendments of specifications or claims must be made on separate sheets of paper from the original, and must be filed in the manner above directed.

When amendments are required, the papers themselves are generally returned to the applicant: but it is only to enable him to make those amendments so as to be in harmony with the context. Even when the amendment consists in striking out a portion of the specification or other paper, the same course should be observed. No erasure must be made. The papers must remain forever just as they were when filed, so that a true history of all that has been done in the case may be gathered from them.

106. The following are given as specimens of the forms proper to be observed in such cases:

“I hereby amend my specification by inserting the following words after the word — in the — line of the — page thereof,” [here should follow the words that are to be inserted;] or, “I hereby amend my specification by striking out the — line of the — page thereof,” or, “by striking out the first and fourth claims appended thereto,” or whatever may be the amendment desired by the applicant.

107. The forms of other amendments will readily suggest themselves. In each case the exact words to be struck out or inserted should be clearly described, and the precise point where any insertion is to be made.

108. Where papers are returned to the applicant for amendment, the original papers must in all cases be returned to the office for preservation, together with the amendments.

109. In some cases amendments will be permitted to be made by writing out the entire paper anew; but even when this is done, the original paper must be returned and preserved.

110. No paper will be allowed to be taken from this office unless receipted for, or unless a written request be filed by the party entitled to control the case, nor until all interlineations and erasures are clearly noted on the paper in such a manner as to prevent the possibility of any change being made without the certainty of immediate detection.

111. The practice which has been sometimes pursued of placing the affidavit of the applicant on one piece of paper, and the signature to the specification on another, so that both may be detached and applied to other papers, will be looked upon with suspicion, and any such substitution will be carefully guarded against.

No such specifications will be received unless attached together by a tape, both the ends of which are secured by the seal of the officer who administered the oath, or unless that officer at least has subscribed his name upon each separate sheet of paper, so as to show that the specification presented is the same that was subscribed and sworn to.

RULES FOR RECONSIDERATIONS.

The following rules will be strictly observed, except when, for cause shown, in special cases a modification shall be allowed by the Commissioner:

112. Upon the rejection of an application for a patent for the want of novelty, the applicant will be furnished with references to the cases on which the rejection was made, with a brief explanation of the

cause of rejection. If he desires a copy of the cases so referred to, or of the plates or drawings connected with them, these will all be forwarded to him on payment of the cost for making such copies.

113. If the applicant feels able to remove the objections raised by the office, he may himself, or by his agent, come before the proper examiner between two and three o'clock p. m. on any Monday, Wednesday, or Friday of the week, for the purpose of making the desired explanations, or he may forward his reasons in writing, to be laid before the examiner.

114. Should there be—notwithstanding these reasons—a second rejection, the applicant may in person, or by his agent, or in writing, as above contemplated, bring the matter before the Commissioner, who will, if possible, examine the case in person; but should he not be sufficiently at leisure, it will be referred to a board of examiners.

The decision attained in either of these modes will be final, so far as the action of this office is concerned. The only remaining remedy will be by appeal in those cases allowed by law. (See sections 38, 39, and 40, of these rules.)

OF GIVING OR WITHHOLDING INFORMATION.

115. Aside from the caveats which are required by law to be kept secret, all pending applications are, as far as practicable, preserved in like secrecy. No information will therefore be given to those inquiring whether any particular patent is before the office, or whether any particular person has applied for a patent.

116. But information is given in relation to any case after a patent has issued, or after a patent has been refused, and the further prosecution of the application is abandoned.

The models in such cases are so placed as to be subject to general inspection; the specifications and drawings in any particular case can be seen by any one having particular occasion to examine them, and copies thereof, as well as of patents granted, will be furnished to any one willing to pay the bare expense of making them. Copies will be made on parchment at the request of an applicant, upon his paying the additional cost.

117. Even after a case is rejected, the application is regarded as pending until after the decision of an appeal thereon, or until after the party has withdrawn the case from the further consideration of the office; but if a party whose application has been rejected, allows the matter to rest for two years without taking any further steps therein, he will be regarded as having abandoned his application, so far at least that it will no longer be protected by any rule of secrecy. And in all cases where the specification is withdrawn from the office, and retained by the applicant or his agent for six months or upwards, the like abandonment will be presumed.

The specification, drawings, and model, will then be subject to inspection in the same manner as those of patented or withdrawn applications.

118. Information in relation to pending cases is given so far as it becomes necessary in conducting the business of the office, but no further. Thus, when an interference is declared between two pending

applications, each of the contestants is entitled to a knowledge of so much of his antagonist's case as to enable him to conduct his own understandingly.

And where the rejection of an application is founded upon another case previously rejected, but not withdrawn or abandoned, the rejected applicant will be furnished with all information in relation to the previously rejected case which is necessary for the proper understanding and management of his own.

119. When an applicant claims a certain device, and the same device is found *described* but not *claimed* in another pending application which was previously filed, information of the filing of such second application is always given to the prior applicant, with a suggestion that if he desires to claim a patent for that device, he should forthwith modify his specification accordingly.

120. But where the application which thus describes a device without claiming it is subsequent in date to that wherein such device is claimed, the general rule is, that no notice of the claim in the previous application is given to the subsequent applicant. But where there are any special reasons to doubt whether the prior applicant is really the inventor of the device claimed, or where there are any other peculiar and sufficient reasons for departing from the rule above stated, the office reserves to itself the right of so doing without its being regarded as a departure from the established rule.

121. The office cannot respond to inquiries as to the novelty of an alleged invention, in advance of an application for a patent, in manner pointed out in this pamphlet, (see section 23,) for obvious reasons; nor to inquiries founded upon brief and imperfect descriptions propounded with a view of ascertaining whether such alleged improvements have been patented, and if so, to whom; nor can it act as an expounder of the patent law, or as counsellor for individuals, except as to questions arising within the office.

122. All business with the office should be transacted in writing. Unless by the consent of all parties, the action of the office will be predicated exclusively on the written record. No attention will be paid to any alleged verbal promise or understanding, in relation to which there is any disagreement or doubt.

CHARLES MASON,
Commissioner.

PATENT OFFICE, *December 1, 1855.*